

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BEYOND BESPOKE TAILORS, INC. and  
NICK TORRES,

Plaintiffs,

-against-

JAMES BARCHIESI ET AL,

Defendants.

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JAMES BARCHIESI,

Third Party Plaintiff,

-against-

LINDA ROTH d/b/a ROTH CPA, ROTH  
ASSOCIATES and ROTH CERTIFIED PUBLIC  
ACCOUNTANTS,

Third Party Defendants.

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For the reasons stated on the record during the parties' November 3, 2022 discovery conference, the Court rules as follows:

1. Plaintiffs' motion to compel as to Plaintiffs' Second Request for the Production of Documents is denied. Defendant Barchiesi's general objections are impermissible, but his Fifth Amendment privilege objection is sufficient. Plaintiffs may seek an adverse inference at summary judgment and/or trial.
2. Plaintiffs' motion to compel as to Plaintiffs' Third Request for the Production of Documents is denied as moot given Defendant Barchiesi's representation that he did not withhold any responsive documents based on his objections.

**ORDER**


**20-CV-5482 (VSB) (JW)**

3. Plaintiffs' motion to compel as to Plaintiffs' Fourth Request for the Production of Documents is denied as premature. Defendant Barchiesi shall respond to Plaintiffs' request by **December 5, 2022**.
4. Plaintiffs' request for leave to file a motion for sanctions is granted and shall be limited to the costs related to Defendant Barchiesi's deposition.
5. Defendant Barchiesi's motion to compel disclosure of documents from Third-Party Defendants' and/or Plaintiffs' counsel related to any documents in their custody that reference counsel Robert Barchiesi's name is denied because counsel Robert Barchiesi and Defendant Barchiesi should have those documents. Documents Plaintiffs and/or Third-Party Defendants use for impeachment purposes do not need to be produced in the first instance.
6. Defendant Barchiesi's motion to terminate or limit the scope and manner of the deposition of Defendant Barchiesi is denied as moot. The parties have agreed that the deposition of Defendant Barchiesi will resume and questions about the extent, if any, of his brother Robert Barchiesi's involvement in Defendants' businesses will be permitted. Defendant Barchiesi shall have separate counsel for the limited purpose of responding to such questions.
7. Defendant Barchiesi's motion to quash the subpoena of Robert Barchiesi is denied as premature. The parties agree that the deposition and request for documents from Robert Barchiesi may be unnecessary.
8. Defendant Barchiesi's motion to compel as to Defendant Barchiesi's August 15, 2022 Rule 34 Notice is denied as premature. The parties shall meet and confer regarding Defendant Barchiesi's document requests.

The parties may file a joint proposed amended discovery order. **This Order terminates docket numbers 145, 150, 156, 160, and 163.**

SO ORDERED.

Dated: November 3, 2022  
New York, New York

  
JENNIFER E. WILLIS  
United States Magistrate Judge